

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 4, 2013

Elisabeth A. Shumaker
Clerk of Court

ROBERT E. COTNER,

Petitioner - Appellant,

v.

WARDEN McCOLLUM,

Respondent - Appellee.

No. 12-6309
(D.C. No. 5:12-CV-00900-M)
(W. Okla.)

ORDER

This matter is before the court on Mr. Cotner's response to the court's December 3, 2012 show cause order. As the court explained in that order, and as Mr. Cotner is well aware, he is subject to filing restrictions in this circuit. *See Cotner v. Boone*, No. 01-7096, 2002 WL 31045393 (10th Cir. 2002) (imposing filing restrictions due to history of frivolous and abusive litigation). Per those restrictions, he may not proceed with an appeal related to a *habeas petition* unless he contemporaneously submits a separate document certifying that the claim he seeks to assert satisfies 28 U.S.C. § 2244(b)(2).

Further, Mr. Cotner may not proceed in this court *in any civil action*, unless he is represented by a licensed attorney or first obtains permission to proceed *pro se*. To obtain permission, *in addition to* the certification he must make in a habeas appeal, Mr. Cotner must submit a separate petition requesting leave to proceed *pro se*. Among the requirements of this petition, Mr. Cotner must include a list, by case name, number, and

citation, of every proceeding he has currently pending or previously filed with this court, along with a statement indicating the current status or disposition of each proceeding.

Mr. Cotner must provide the name, number, and citation, of each proceeding and the status or disposition of each proceeding *on a case-by-case basis*; neither a printout of case numbers from this court's docket nor a general statement of disposition addressed to all of his cases as a group will suffice.

Cotner v. Boone imposed very specific restrictions on Mr. Cotner as well as the burden of satisfying those restrictions. Mr. Cotner's response to the December 3 Order does not comply with the filing restriction requirements. He was previously warned that any defect in compliance would be grounds for dismissal without further notice.

Accordingly, the captioned appeal is dismissed for lack of prosecution pursuant to 10th Cir. R. 42.1.

A copy of this order shall stand as and for the mandate of this court.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in dark ink, appearing to read "Jane K. Castro", with a long horizontal flourish extending to the right.

by: Jane K. Castro
Counsel to the Clerk